

CHAPTER-XI FINANCE ACCOUNT AND AUDIT

32. The Financial requirement of the Lokayukta, Budget, Accounts, etc. including audit shall be dealt by the Lokayukta in such manner, as may be considered expedient. For the purpose of proper audit, the Lokayukta shall maintain proper account which shall be audited by the official of the Accountant General, Sikkim.

Furnishing of returns etc., to Government

33. The Lokayukta shall furnish to the Government, at such time and in such form and manner as may be prescribed or, as the Government may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the Government may, from time to time, require.

CHAPTER-XII DECLARATION OF ASSETS

Declaration of assets

34. (1) Every public servant shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.

(2) A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to –

- (a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;
- (b) his liabilities and that of his spouse and his dependent children.

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2), to the competent authority within ninety days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the thirty-first July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the thirty-first March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Department shall maintain the records of such statements in such manner as may be provided under law.

Explanation. - For the purposes of this section, "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood.

False information to be dealt as per law

35. If any public servant willfully or for reasons which are not justifiable, fails to declare his asset or gives misleading or false information in respect of such assets, in such cases he shall be dealt with as per provisions of law.

CHAPTER-XIII

OFFENCES AND PENALTIES

**Prosecution for
false complaint
and payment of
compensation,
etc., to public
servant**

36. (1) Whoever makes any false or frivolous or vexatious complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

(2) No Court, except a Special Court, shall take cognizance of an offence under sub-section (1).

(3) No Special Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom the false, frivolous or vexatious complaint was made or by an officer authorized by the Lokayukta.

(4) The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the Government.

(5) In case of conviction of a person being an individual or society or association of persons or trust (whether registered or not) for having made a false complaint under this Act, such person shall be liable to pay compensation to the public servant against whom he made the false complaint in addition to the legal expenses for contesting the case by such public servant, as the Special Court may determine.

(6) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation.- For the purpose of this sub-section, the expression "good faith" means any act believed or done by a person in good faith with due care, caution and sense of responsibility or by mistake of fact believing himself justified by law under section 79 of the Indian Penal Code, 1860.

**False
complaint
made by
society or
association of
persons or**

37. (1) Where any offence under sub-section (1) of section 36 has been committed by any society or association of persons or trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the society or association of persons or trust, for the conduct of the business or affairs or activities of the society or association of persons or trust as well as such society or association of persons or trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or association of persons or trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of such society or association of persons or trust, such director, manager, secretary or other officer of the society shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER-XIV MISCELLANEOUS

Reports of
Lokayukta

Protection of
action taken
in good faith
by any public
servant

Protection of
action taken
in good faith
by others

Members,
officers and
employees of
Lokayukta to
be public

Power to
make rules

Separate
Establishment

Power to make
regulations

Power to
remove
difficulties.

Transitory
provision.

Repeal

38. It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the advice of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Sikkim Legislative Assembly.

39. No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

40. No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer, employee, agency or any person, in respect of anything which is done in good faith or intended to be done under this Act or the rules or the regulations made thereunder.

41. The Chairperson, Members, officers and other employees of the Lokayukta shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

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1860

42. The Government may, by notification, make rules to carry out the provisions of this Act.

43. (i) The Lokayukta shall be a separate establishment having its own logo and seal and the conditions of service of its staff and officers shall be such as may be prescribed by Lokayukta and notification to this effect shall be issued by the State Government.

(ii) Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, by notification, make regulations to carry out the provisions of this Act.

44. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Sikkim Legislative Assembly.

45. On the coming into force of this Act and the Lokayukta being constituted, any allegation of corruption pending inquiry before the Vigilance Wing of the State Government or any other body or authority or Commission of Inquiry, constituted under Commission of Inquiry Act 1952, shall stand transferred to the Lokayukta constituted under this Act to be dealt with in accordance with the provisions of this Act.

46. The Sikkim Lokayukta Act, 2012 is hereby repealed.

Mrs. Lakchung Sherpa, SSJS
L. R -cum-Secretary
Law department

SIKKIM
GOVERNMENT  **GAZETTE**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Friday 18th December, 2015

No. 472

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No.7/LD/15

Dated: 8.12.2015

NOTIFICATION

The following Act, passed by the Sikkim Legislative Assembly and having received assent of the Governor on 20th day of November, 2015 is hereby published for general information:-

THE SIKKIM LOKAYUKTA (AMENDMENT) ACT, 2015

(ACT NO. 7 OF 2015)

AN

ACT

to amend the Sikkim Lokayukta Act, 2014.

Be it enacted by the Legislature of Sikkim in the Sixty-sixth Year of the Republic of India as follows:-

- Short title, extent 1. and commencement** (1) This Act may be called the Sikkim Lokayukta (Amendment) Act, 2015
(2) It shall extend to whole of Sikkim.
(3) Amendment to section 4 of the Sikkim Lokayukta Act, 2014, (hereinafter referred to as the "Principal Act"), shall come into force at once, but the amendment to section 13 of the Principal Act shall be deemed to have come into force on the 27th day of February, 2014.

Amendment of section 4

2. In the Principal Act, in clause (d) of sub-section (1) of section 4, after the words "senior most member of the Legislative Assembly" and before the word "Member", the words "by age" shall be inserted.

Amendment of section 13

3. In the Principal Act, in section 13, in subsection (4), after the words "no cognizance of a complaint shall" and before the words "be taken", the word "ordinarily" inserted.

**Lakchung Sherpa (SSJS),
L.R-cum-Secretary,
Law Department.**

SIKKIM

GOVERNMENT **GAZETTE**
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Monday 23rd July, 2018 No. 372

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 17/LD/18

Dated: 21.07.2018

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 17th day of July, 2018 is hereby published for general information:-

**THE SIKKIM LOKAYUKTA (AMENDMENT) ACT, 2018
(ACT NO. 17 OF 2018)**

AN

ACT

further to amend the Sikkim Lokayukta Act, 2014.

BE it enacted by the Legislature of Sikkim in the Sixty-ninth Year of the Republic of India, as follows:-

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| Short title, extent and commencement | <p>1. (1) This Act may be called the Sikkim Lokayukta (Amendment) Act, 2018.</p> <p>(2) It shall extend to the whole of Sikkim.</p> <p>(3) (a) The amendments in Section 4 of the Sikkim Lokayukta Act, 2014 shall come into force at once.</p> <p>(b) All other amendments in the said Act shall be deemed to have come into force on the 27th day of February, 2014.</p> |
| Amendment of section 2 | <p>2. In the Sikkim Lokayukta Act, 2014, (hereinafter referred to as the "said Act"), in section 2,-</p> <p>(i) in clause (e), after the word "means" and before the words "an investigation", the words "an investigation by the Lokayukta and" shall be inserted;</p> <p>(ii) after clause (q), a new clause (r) shall be inserted, namely:-</p> |



(r) "Agency or investigating agency or special agency or authority means agency or investigating agency or special agency or authority within the State."

Amendment of
section 4

3. In the said Act, in section 4,-
 - (i) in sub-section (1), the words "and Members" shall be omitted;
 - ii) after sub-section (1) a new sub-section shall be inserted, namely:-

"(1A)Members of the Lokayukta shall be appointed by the Governor by warrant under his hand and seal after obtaining recommendation of a Selection Committee consisting of,-

 - (a) the Chief Minister – Chairperson;
 - (b) the Chairperson of the Lokayukta, Sikkim – Member;
 - (c) the Speaker of the Legislative Assembly – Member;
 - (d) the Leader of Opposition in the Legislative Assembly. If there is no leader of the opposition, then the senior most Member of the Legislative Assembly by age – Member;
 - (e) an eminent person from the State as may be nominated by the Governor – Member".

Amendment of
section 5

4. In the said Act, for the existing section 5, the following shall be substituted, namely;-

"5. (1) The Chairperson and every Member shall, hold office as such for a term of five years from the date on which he enters upon his office.

(2) The term of the Chairperson and Member may be extended for a further period not exceeding five years.

(3) The Chairperson or Member may,-

 - (a) by writing under his hand addressed to the Governor resign his office, or
 - (b) be removed from his office in the manner provided in section 30."

Amendment of
section 10

5. In the said Act, after sub-section (2) of section 10, the following new sub-section shall be inserted, namely;-

"(3) The Inspector of the Inquiry Wing may at the instance of the Lokayukta function as the Investigating Officer in relation to any Investigation by the Lokayukta itself and for the said purpose, he shall have the powers of a Police Officer-in-Charge of a Police Station under the Code of Criminal Procedure, 1973, other than arrest."

Amendment of
section 11

6. In the said Act, in sub-section (2) of section 11, the following words shall be omitted, namely;- "as per sub-section (6) of section 14."



Amendment of
section 14

7. In the said Act, in section 14,-
- (i) for the existing sub-section (1) and the entries relating thereto, the following shall be substituted, namely:-

"(1) The Lokayukta, on receipt of a complaint, if it decides to proceed further, may undertake:-

 - (a) preliminary inquiry against any public servant by itself or its inquiry wing or order any agency to ascertain whether there exists a prima facie case for proceeding in the matter; or
 - (b) investigation by itself or order any agency or authority empowered under any law to investigate, where there exists a prima facie case:

Provided that any investigation under this clause shall be undertaken or ordered only if in the opinion of the Lokayukta there is substantial material relating to the existence of a prima facie case or any earlier statutory investigation or inquiry regarding the same complaint reveals that a prima facie case exists;

Provided further that before undertaking or ordering an investigation under this clause, the Lokayukta may call for the explanation of the public servant, so as to determine whether there exists a prima facie case for investigation.";
 - (ii) in sub-section (2), the words "and competent authority" wherever they occur, shall be omitted;
 - (iii) in sub-section (3),-
 - (a) the words "make recommendations to" shall be omitted;
 - (b) in clause (a), after the word "investigation", the words "by itself or" shall be inserted; - (iv) for the existing sub-section (4), the following shall be substituted, namely;-

"(4) During the pendency of proceedings before the Lokayukta, the promotion and other service benefits of a public servant mentioned in clauses (e) to (h) of sub-section (1) of section 13 shall be dealt with as per the provisions of law applicable to such cases.";
 - (v) in sub-section (6), for the words "it shall", the words "it may do so itself or" shall be substituted;
 - (vi) for the existing sub-section (8), the following shall be substituted, namely;-

"(8) The Lokayukta shall on the conclusion of the Investigation consider the entire material and finalise its report and based on its conclusions decide as to,-

 - (a) filing of charge-sheet or closure report before the Special Court against the public servant, or



- (b) initiating departmental proceedings or any other appropriate action against the concerned public servant by the competent authority;
- (vii) in sub-section (9), the words "in respect of cases investigated by any investigating agency (including any special agency)" shall be omitted.
- Amendment of section 19
8. In the said Act, after sub-section (2) of section 19, the following new proviso shall be inserted, namely:-
- "Provided that nothing contained in this section shall prevent the Lokayukta from conducting preliminary inquiry or investigation by itself and while doing so, may take the assistance of the Inquiry Wing of the Lokayukta or any other agency."
- Amendment of section 21
9. In the said Act, in sub-section (1) of section 21, after the words "preliminary Inquiry", the words "the Lokayukta and" shall be inserted.

K.C. Barphungpa (SSJS)
L.R-cum-Secretary
Law Department



SIKKIM

GOVERNMENT **GAZETTE**
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Saturday 29th September, 2018

No. 538

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 25/LD/18

Date: 29.09.2018

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 24th day of September, 2018 is hereby published for general information:-

THE SIKKIM LOKAYUKTA (AMENDMENT) ACT, 2018
(ACT NO. 25 OF 2018)

AN
ACT

further to amend the Sikkim Lokayukta Act, 2014.

BE it enacted by the Legislature of Sikkim in the Sixty-ninth Year of the Republic of India, as follows:-

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| Short title,
extent and
commencement | 1. (1) This Act may be called the Sikkim Lokayukta (Amendment) Act, 2018.

(2) It shall extend to the whole of Sikkim.

(3) (a) The amendment of Section 9 and 18 shall be deemed to have come into force on the 27th day of February, 2014.

(b) The amendment of the Act by way of insertion of new Section 37A and the amendment of Section 45 shall come into force at once. |
| Amendment of
Section 9 | 2. In the Sikkim Lokayukta Act, 2014, (hereinafter referred to as the said Act), in Section 9 for the existing sub-section (5), the following sub-section shall be substituted, namely:-

“(5) The Chairperson, Lokayukta, Sikkim may make such other appointment in the Lokayukta for such purpose and with such designation as may be deemed necessary.” |

- Amendment of Section 18** 3. In the said Act, in Section 18, after the word and letter "clause (c)" and before the words and figures "of sub-section (1) of Section 13", the words and letter "or clause (e)" shall be inserted.
- Insertion of new Section 37A** 4. In the said Act, after Section 37, the following new Section 37A shall be inserted, namely;-
- "37A Intentional insult or interruption to, or bringing into disrepute, Lokayukta.-**
- (1) Whoever offers any insult, or causes any interruption to Lokayukta or causes wilful disobedience to any direction of Lokayukta while the Lokayukta is conducting any investigation, preliminary inquiry under this Act shall be punished with simple imprisonment for term which may extend to six months, or with a fine of not less than rupees five hundred but not more than rupees one thousand or with both.
- (2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act which is calculated to bring the Lokayukta into disrepute, shall, be punished with simple imprisonment for a term which may extend to six months, or with a fine of not less than rupees five hundred but not more than rupees one thousand or with both.
- (3) No Court shall take cognizance of an offence under sub-section (1) or sub-section (2), except by a Court of competent jurisdiction and unless the complaint is made by the Public Prosecutor of the Lokayukta or by an officer authorized by the Lokayukta.
- Amendment of Section 45** 5. In the said Act, after Section 45, the following proviso shall be inserted, namely;-
- Provided that cases which were instituted or registered prior to the commencement of this Act involving ingredients of the Prevention of Corruption Act, 1988 and the investigation in respect of those cases are still pending, the Lokayukta may order for conducting and continuing the investigation under its supervision.

K.C. Barphungpa (SSJS)
L.R-cum-Secretary
Law Department

SIKKIM

GOVERNMENT **GAZETTE**
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Tuesday 13th August, 2019

No. 345

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 7/LD/19

Date: 13.08.2019

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 9th day of August, 2019 is hereby published for general information:-

THE SIKKIM LOKAYUKTA (AMENDMENT) ACT, 2019
(ACT NO. 07 OF 2019)
AN
ACT

further to amend the Sikkim Lokayukta Act, 2014.

BE it enacted by the Legislature of Sikkim in the Seventieth Year of Republic of India, as follows:-

Short title, extent and commencement 1. (1) This Act may be called the Sikkim Lokayukta (Amendment) Act, 2019.

(2) It shall extend to the whole of Sikkim.

(3) (a) The amendments of section 5 and 9 of the Act shall be deemed to have come into force on the 27th day of February, 2014.

(b) All other amendments shall come into force at once.

Amendment of section 3 2. In the Sikkim Lokayukta Act, 2014, (hereinafter referred to as the "said Act", for existing clause (a) of sub-section (2) of section 3, the following shall be substituted, namely:-

"(a) a Chairperson, who has been Chief Justice or a Judge of a High Court;"

- Amendment of section 5
 - 3. In the said Act, in section 5, sub-section (2) shall be omitted.
- Amendment of section 7
 - 4. In the said Act, for the existing clause (a) of section 7, the following shall be substituted, namely:-

"(a) the Chairperson shall be the same as those of the Chief Justice or a Judge of the High Court of Sikkim as the case may be."
- Amendment of section 9
 - 5. In the said Act, in section 9,-
 - (i) in sub-section (1), for the existing words "appointed by the Chairperson from among a panel of name sent by the State Government", the following words shall be substituted, namely:-

provided by the State Government either by way of transfer on deputation or appointment as the case may be;
 - (ii) in sub-section (2), for the word "Chairperson", the words "State Government" shall be substituted;
 - (iii) sub-section (3) shall be omitted;
 - (iv) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) The Officers and staff required for the functioning of the Lokayukta shall be provided by the State Government in consultation with the Chairperson."
 - (v) in sub-section (5), after the word "Sikkim" and before the words "may make", the words "in consultation with the State Government" shall be inserted;
 - (vi) after sub-section (5), the following new sub-section (6) shall be inserted, namely:-

"(6) In case of a person who has been in the rank of Secretary to the Government and who is appointed as Secretary to the Lokayukta in terms of sub-section (1), such person shall hold office for a period of 5 (five) years or till the age of 65 years, whichever is earlier".
- Amendment of section 22
 - 6. In the said Act, in sub-section (1) of section 22, after the word "agency of the Government", the words "in consultation with the State Government" shall be inserted.
- Amendment of section 30
 - 7. In the said Act, in section 30,-
 - (i) after clause (c) of sub-section (5), the following new clause (d) shall be inserted, namely:-

"(d) is guilty of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of the High Court of Sikkim or by such other Judge of the High Court of Sikkim as the Chief Justice may nominate in this behalf."
 - (ii) the repeated sub-section (5) appearing after clause (c) of sub-section (5) shall be renumbered as sub-section (6).

**Amendment of
section 45**

8. In the said Act, for the existing section 45 and the entries relating thereto, the following shall be substituted, namely:-
“45. The State Government may transfer any allegation of corruption pending inquiry before the Vigilance Wing of the State Government or any other body or authority or Commission of Inquiry, constituted under the Commission of Inquiry Act, 1952, as the case may be, to the Lokayukta constituted under this Act to be dealt with in accordance with the provisions of this Act.”

Jagat B. Rai (SSJS),
L.R.-cum-Secretary,
Law Department.